

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION**

**UNITED STATES OF AMERICA**

**PLAINTIFF**

**V.**

**CASE NO. 5:16-CR-50011-001**

**BARRY GARCIA**

**DEFENDANT**

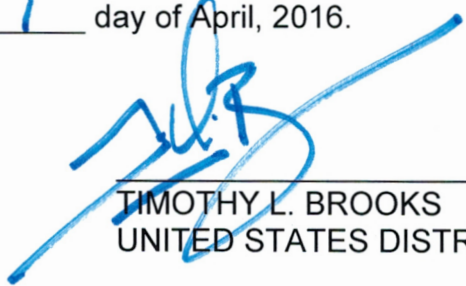
**ORDER**

Currently before the Court is the Report and Recommendation issued by Magistrate Judge Erin L. Setser on April 6, 2016. (Doc. 19.) The parties have waived the right to file objections to the Report and Recommendation. (Doc. 20.) The Court has reviewed the psychological evaluation report filed on April 5, 2016 (Doc. 18), and, being well and sufficiently advised, finds that the Report and Recommendation is proper and should be and hereby is adopted in its entirety. Accordingly, the Court finds and orders as follows:

- (1) The Defendant is found incompetent to proceed to trial at this time;
- (2) Pursuant to 18 U.S.C. § 4241(d)(1), the Defendant is committed to the custody of the Attorney General or his authorized representative to hospitalize the Defendant for treatment in a suitable facility for such a reasonable period of time, not to exceed four months, to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward. To facilitate continuity in the assessment/evaluation/treatment, the Court requests, if possible, that the Bureau of Prisons return the Defendant for these purposes to the Fort Worth Federal Correctional Institution;

- (3) The United States District Court Clerk is directed to provide the United States Marshal's Service with a certified copy of this order. The United States Marshal's Service is directed to immediately notify Magistrate Judge Erin L. Setser upon receipt of Defendant's facility designation. Judge Setser will then issue an order directing Defendant's transport to this facility; and
- (4) The delay occasioned by the competency proceedings and hospitalization of the Defendant is excludable under the provisions of 18 U.S.C. § 3161(h)(1)(A) & (F).

IT IS SO ORDERED this 7<sup>th</sup> day of April, 2016.



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TIMOTHY L. BROOKS  
UNITED STATES DISTRICT JUDGE